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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,065	04/08/2004	Rudolph J. Kopfer	KOPFER-07936	2091
7590 06/30/2005			EXAMINER	
Christine A. Lekutis MEDLEN & CARROLL, LLP Suite 350 101 Howard Street San Francisco, CA 94105			DANG, HUNG XUAN	
			ART UNIT	PAPER NUMBER
			2873	

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/822,065	Applicant(s) KOPFER, RUDOLPH J.	
	Examiner Hung X. Dang	Art Unit 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Information Disclosure Statement

1. The prior art documents submitted by applicant in the Information disclosure Statements filed on 8/24/04 have all been considered and made of record (noted attached copy of form PTO-1449).

Claims Rejection Under 35 USC - 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-12, 14-23, 25 and 29-39 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by **Kopfer** (6,550,914).

Kopfer discloses eyewear with filter ventilation comprises a front frame 10 formed from a resilient material for holding a pair of lenses 14, a ventilation liner can be constructed from the same material as the frame, wherein the ventilation liner 42 contoured to fit a wearer's face closely while spacing the lenses from the wearer's face to create a dead space 26 between the user's eye and the lenses, the ventilation liner also be provided with a plurality of upper grooves 50 and lower grooves 50".

Claims Rejection Under 35 USC - 102

3. A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 11, 12, 14-24, 29, 34-36, 40 and 41 are rejected under 35

U.S.C. 102(b) as being clearly anticipated by **McGee et al.** (3,945,044).

McGee et al discloses goggle and accessories therefor comprises a front frame 10 formed from a resilient flexible material such as a soft plastic or soft rubber for holding a lens 80, a ventilation liner can be constructed from the same material as the frame, wherein the ventilation liner contoured to fit a wearer's face closely while spacing the lenses from the wearer's face to create a dead space between the user's eye and the lenses, the ventilation liner also be provided with a plurality of upper grooves 30 and lower grooves 30, wherein the lens is interchangeable.

Claims Rejection Under 35 USC - 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kopfer** (6,550,914).

Kopfer does not disclose the vent grooves for forcing incoming air to make a ninety degree turn before entering the dead space.

Although the Kopfer device does not teach the exact configuration of the groove as that claimed by Applicant, the configuration differences are considered obvious design choices and are not patentable unless unobvious or unexpected results are obtained from these changes. It appears that these changes produce no functional differences and therefore would have been obvious.

Claims Rejection Under 35 USC - 103

5. Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kopfer** (6,550,914) in view of **Wu** (6,364,479).

Kopfer does not disclose, adjustable temple length (claim 27) and a mean for panoscopic angle adjustment located between the temple and the frame (claim 28).

Wu, however, discloses adjustable temple length and a mean for panoscopic angle adjustment located between the temple and the frame.

Because Kopfer and Wu are both from the same field of endeavor, the purpose of varied the length and angle of the temple and to suit the individual needs and comfort of the wearer as disclosed by Wu would have been recognized as an art pertinent art of Kopfer.

It would have been obvious, therefore, at the time the invention was made to a person having skill in the art to construct the eyeglasses frame, such as the one disclosed by Kopfer, with adjustable temple length and a means for panoramic angle adjustment located between the temple and the frame, such as disclosed by Wu for the purpose of varied the length and angle of the temple and to suit the individual needs and comfort of the wearer.

Claim Rejections Under 35 USC - 103

6. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kopfer** (6,550,914) in view of **Allewalt** (5,619,750).

Kopfer does not disclose, two side lenses.

Allewalt, however, discloses two side lenses.

Because Kopfer and Allewalt are both from the same field of endeavor, the purpose of blocking the unwanted light as disclosed by Allewalt would have been recognized as an art pertinent art of Kopfer.

It would have been obvious, therefore, at the time the invention was made to a person having skill in the art to construct the eyeglasses frame, such as the one disclosed by Kopfer, with two side lenses, such as disclosed by Allewalt for the purpose of blocking the unwanted light.

Art Unit: 2873

7. Any inquiry concerning this communication should be directed to Examiner Dang at telephone number (571) 272-2326.

6/05

A handwritten signature in black ink, appearing to read "Hung Dang", with a stylized, looped ending.

HUNG DANG

PRIMARY EXAMINER

TC 2800